

Introduced by Senator Denham

February 22, 2005

An act to amend Section 11011.10, and to repeal Sections 11011, 11011.1, 11011.2, 11011.3, 11011.4, 11011.5, 11011.6, 11011.8, and 11011.9, of the Government Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 900, as introduced, Denham. Surplus state property: disposition.

(1) Existing law, inoperative until July 1, 2005, sets forth a scheme pursuant to which certain state property may be declared surplus and disposed of by the Department of General Services upon authorization by the Legislature, including, among other things, the transfer at less than fair market value to local agencies of property to be used for park and recreation purposes by the local agencies, subject to specified conditions.

This bill would repeal these provisions, except for those relating to the transfer of property for use for park and recreation purposes by local agencies at less than fair market value.

(2) Existing law, operative until July 1, 2005, and repealed as of January 1, 2006, sets forth a scheme pursuant to which certain state property may be declared surplus and disposed of by the Department of General Services upon authorization by the Legislature. Transfers of surplus property to local governmental agencies or private entities or individuals pursuant to these provisions are required to be at fair market value.

This bill would delete the inoperative and repeal dates of these provisions, thus making them permanent.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11011 of the Government Code is
2 repealed.

3 ~~11011. (a) On or before December 31st of each year, each~~
4 ~~state agency shall make a review of all proprietary state lands,~~
5 ~~other than tax-deeded land, land held for highway purposes,~~
6 ~~lands under the jurisdiction of the State Lands Commission, land~~
7 ~~that has escheated to the state or that has been distributed to the~~
8 ~~state by court decree in estates of deceased persons, and lands~~
9 ~~under the jurisdiction of the State Coastal Conservancy, over~~
10 ~~which it has jurisdiction to determine what, if any, land is in~~
11 ~~excess of its foreseeable needs and report thereon in writing to~~
12 ~~the Department of General Services. These lands shall include,~~
13 ~~but not be limited to, the following:~~

14 ~~(1) Land not currently being utilized, or currently being~~
15 ~~underutilized, by the state agency for any existing or ongoing~~
16 ~~state program.~~

17 ~~(2) Land for which the state agency has not identified any~~
18 ~~specific utilization relative to future programmatic needs.~~

19 ~~(3) Land not identified by the state agency within its master~~
20 ~~plans for facility development.~~

21 ~~(b) Jurisdiction of all land reported as excess shall be~~
22 ~~transferred to the Department of General Services, when~~
23 ~~requested by the director thereof, for sale or disposition under~~
24 ~~this section or as may be otherwise authorized by law.~~

25 ~~(c) The Department of General Services shall report to the~~
26 ~~Legislature annually, the land declared excess and request~~
27 ~~authorization to dispose of the land by sale or otherwise.~~

28 ~~(d) The Department of General Services shall review and~~
29 ~~consider reports submitted to the Director of General Services~~
30 ~~pursuant to Section 66907.12 of the Government Code and~~
31 ~~Section 31104.3 of the Public Resources Code prior to~~
32 ~~recommending or taking any action on surplus land, and shall~~
33 ~~also circulate the reports to all agencies that are required to report~~

1 ~~excess land pursuant to this section. In recommending or~~
2 ~~determining the disposition of surplus lands, the Director of~~
3 ~~General Services may give priority to proposals by the state that~~
4 ~~involve the exchange of surplus lands for lands listed in those~~
5 ~~reports.~~

6 ~~(e) Except as otherwise provided by any other provision of~~
7 ~~law, whenever any land is reported as excess pursuant to this~~
8 ~~section, the Department of General Services shall determine~~
9 ~~whether or not the use of the land is needed by any other state~~
10 ~~agency. If the Department of General Services determines that~~
11 ~~any land is needed by any other state agency it may transfer the~~
12 ~~jurisdiction of this land to the other state agency upon the terms~~
13 ~~and conditions as it may deem to be for the best interests of the~~
14 ~~state.~~

15 ~~(f) When authority is granted for the sale or other disposition~~
16 ~~of lands declared excess, and the Department of General Services~~
17 ~~has determined that the use of the land is not needed by any other~~
18 ~~state agency, the Department of General Services shall sell the~~
19 ~~land or otherwise dispose of the same pursuant to the~~
20 ~~authorization, upon any terms and conditions and subject to any~~
21 ~~reservations and exceptions as the Department of General~~
22 ~~Services may deem to be for the best interests of the state. The~~
23 ~~Department of General Services shall report to the Legislature~~
24 ~~annually, with respect to each parcel of land authorized to be sold~~
25 ~~under this section, giving the following information:~~

26 ~~(1) A description or other identification of the property.~~

27 ~~(2) The date of authorization.~~

28 ~~(3) With regard to each parcel sold after the next preceding~~
29 ~~report, the date of sale and price received, or the value of the land~~
30 ~~received in exchange.~~

31 ~~(4) The present status of the property, if not sold or otherwise~~
32 ~~disposed of at the time of the report.~~

33 ~~(g) Except as otherwise specified by law, moneys received~~
34 ~~from any property disposition, including the sale, lease,~~
35 ~~exchange, or other means, that is received pursuant to this section~~
36 ~~shall be paid into the General Fund.~~

37 ~~For purposes of this section, net proceeds shall be defined as~~
38 ~~gross proceeds less all costs directly related to the completion of~~
39 ~~the transaction including, but not limited to, selling costs, transfer~~

1 fees, commissions, and costs incurred by the Department of
2 General Services.

3 (h) Any rentals or other revenues received by the department
4 from real properties, the jurisdiction of which has been
5 transferred to the Department of General Services under this
6 section, shall be deposited in the General Fund in the account
7 established by Section 15863. Any expenditures required to
8 maintain, repair, care for, and sell this real property shall be paid
9 from the appropriation made by Section 15863.

10 (i) Nothing contained in this section shall be construed to
11 prohibit the sale, letting, or other disposition of any state lands
12 pursuant to any law now or hereafter enacted authorizing the
13 sale, letting, or disposition.

14 (j) This section shall be inoperative for the period
15 commencing with the effective date of the act that added this
16 subdivision, until July 1, 2005.

17 SEC. 2. Section 11011.1 of the Government Code is repealed.

18 11011.1. (a) Land that has been declared surplus by the
19 Legislature, pursuant to Section 11011, and is not needed by any
20 state agency shall be offered to local governmental agencies.
21 Except as authorized in subdivisions (b), (c), (d), (e), and (k), or
22 any combination thereof, transfers of surplus land to local
23 governmental agencies pursuant to this section shall be at fair
24 market value. No surplus land shall be sold for less than fair
25 market value, however, to any person or agency, whether public
26 or private, unless the contract for sale provides for the reversion
27 of the land to the state if the stated purpose for which the
28 property is sold is not achieved.

29 (b) Where the land is to be used for park and recreation
30 purposes and operated for those purposes by local agencies at no
31 expense to the state, the Director of General Services with the
32 approval of the State Public Works Board may, notwithstanding
33 any provision in Section 11011, transfer the land to local
34 governmental agencies at less than the fair market value of the
35 land, if the transfer is in the public interest, under the following
36 conditions:

37 (1) The local public agency has submitted a general
38 development plan for the property that conforms to the agency's
39 general plan pursuant to Article 5 (commencing with Section

1 ~~65300) of Chapter 3 of Title 7, and which general development~~
2 ~~plan has been approved by the Director of Parks and Recreation.~~

3 ~~(2) The land shall be developed according to plan within a~~
4 ~~time period determined by the state but not to exceed 10 years.~~
5 ~~The deed or other instrument of transfer shall provide that the~~
6 ~~land shall revert to the state if the land is not developed within~~
7 ~~the time period so determined by the state.~~

8 ~~(3) The deed or other instrument of transfer shall provide that~~
9 ~~the land would revert to the state if the use changed to a use not~~
10 ~~consistent with parks and recreation purposes during the period~~
11 ~~of 25 years following the sale.~~

12 ~~(c) Where the land is to be used for open-space purposes, as~~
13 ~~defined herein, and operated by local agencies at no expense to~~
14 ~~the state, the Director of General Services with the approval of~~
15 ~~the State Public Works Board may transfer the land to local~~
16 ~~governmental agencies at fair market value of the land or at any~~
17 ~~lesser value of the land under any of the following conditions:~~

18 ~~(1) The local public agency has submitted a plan for the use of~~
19 ~~the property that conforms to the agency's general plan pursuant~~
20 ~~to Article 5 (commencing with Section 65300) of Chapter 3 of~~
21 ~~Title 7, and which plan has been approved by the Director of~~
22 ~~Parks and Recreation.~~

23 ~~(2) The land shall be used according to plan within a time~~
24 ~~period determined by the state but not to exceed 10 years.~~

25 ~~(3) The deed or other instrument of transfer shall provide that~~
26 ~~the land would revert to the state if the use changed to a use not~~
27 ~~consistent with open-space purposes during the period of 25~~
28 ~~years following the sale.~~

29 ~~(4) For the purpose of this subdivision, "open-space purpose"~~
30 ~~means the use of land for public recreation, enjoyment of scenic~~
31 ~~beauty, or conservation or use of natural resources.~~

32 ~~(d) Where the land is suitable to be used for the purpose of~~
33 ~~providing housing for persons and families of low or moderate~~
34 ~~income, as defined in Section 50093 of the Health and Safety~~
35 ~~Code, the Director of General Services, with the approval of the~~
36 ~~State Public Works Board, may offer the land to local agencies~~
37 ~~within whose jurisdiction the land is located. Provided, however,~~
38 ~~if the state has held title to the land for seven years or less and the~~
39 ~~land is not used for the purposes for which it was acquired, and~~
40 ~~the land is declared surplus land and is not needed by any other~~

~~state agency pursuant to the provisions of Section 11011, the state, prior to offering the land to local agencies, shall extend to the individual from whom the land was acquired an offer to purchase the land at current fair market value. The offer shall extend for 60 days and if not exercised within that period shall be irrevocably terminated. The land may be transferred to local agencies at a reasonable cost that will enable the provision of housing for persons and families of low or moderate income. The cost may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a cost that will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to the following conditions:~~

~~(1) The local agency has made all of the following findings:~~

~~(A) There is a need for the housing in the community.~~

~~(B) The land is suitable for development of the housing.~~

~~(2) The local agency develops a plan for the housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project. The plan shall be approved by the Department of Housing and Community Development.~~

~~(3) After transfer of the property from the state to the local agency, the property shall be developed as housing for persons and families of low or moderate income. The local agency may lease or sell the property to any nonprofit corporation, housing corporation, limited dividend housing corporation, or private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income. In authorizing the private development, the local agency shall impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income for not less than 40 nor more than 55 years. A lessee or purchaser of land pursuant to this subdivision shall agree to limitations on profit in the operation of the property that will benefit the public and assure that the housing provided thereon is within the means of persons~~

1 and families of low or moderate income. The agreement shall be
2 binding upon successors in interest of the original lessee or
3 purchaser and shall inure to the benefit of, and be enforceable by,
4 the state.

5 (4) The local agency shall assure that the land will be used for
6 the purpose of providing low- or moderate-income housing and
7 shall not permit the use of the dwelling accommodations of the
8 project for any other purpose for not less than 40 nor more than
9 55 years, except as provided in this section.

10 In the event a local agency does not comply with the land use
11 requirements prescribed in this section, as determined by the
12 Department of General Services, the Department of General
13 Services may require that the local agency pay the state the
14 difference between the actual price paid by the local agency for
15 the property and the fair market value of the property, at the time
16 of the department's determination of noncompliance, plus 6
17 percent interest on that amount for the period of time the land has
18 been held by the local agency.

19 If the local agency, with the approval of the Department of
20 General Services, and in consultation with the Department of
21 Housing and Community Development, determines that there is
22 no longer a need for low- or moderate-income housing within the
23 jurisdiction of the local agency and another valid public purpose
24 could be achieved by utilizing the land in an alternative manner,
25 the local agency shall not be required to make any payment to the
26 state for the difference between purchase price and fair market
27 value or interest charges for the period of time the land has been
28 held by the local agency.

29 (5) Failure to comply with the provisions of this section shall
30 not invalidate the transfer, sale, or conveyance of the real
31 property to a bona fide purchaser or encumbrancer for value.

32 (6) The project shall be commenced within 24 months of the
33 original transfer to the local agency. However, the Department of
34 General Services, in consultation with the Department of
35 Housing and Community Development, may for justifiable cause
36 extend the time for commencement of development for an
37 additional 36 months. The aggregate time for commencing
38 development shall not exceed 60 months. The deed or other
39 instrument of conveyance shall specify that, if development has
40 not commenced within that time, the land shall revert to the

~~Department of General Services for disposal pursuant to this section or as otherwise authorized by law.~~

~~(7) As used in this subdivision, “local agency” means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more of those agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.~~

~~(8) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing that is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of that housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units that are made available exclusively to persons and families of low and moderate income.~~

~~(e) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and provided no local agency has acquired or is in the process of acquiring the land pursuant to subdivision (d), the Director of General Services, with the approval of the State Public Works Board, may lease or sell the land to a housing sponsor. The land may be sold or leased at a reasonable cost that may be less than fair market value. The Department of Housing and Community Development shall recommend to the Director of General Services a cost that will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to all of the following conditions:~~

~~(1) The housing sponsor has submitted a plan for the development of that housing pursuant to criteria established by~~

1 the Department of Housing and Community Development. The
2 criteria shall include, but need not be limited to, standards with
3 respect to the cost of the housing development and the proportion
4 of the housing development to be occupied by persons and
5 families of low and moderate income. Insofar as is practical, the
6 plan shall provide for a mix of housing for all income groups.

7 (2) The housing development shall normally be developed or
8 be under development within 24 months from the time of transfer
9 or lease of the land to the housing sponsor. However, the
10 Department of General Services, in consultation with the
11 Department of Housing and Community Development, may,
12 upon finding justifiable cause, extend the time for
13 commencement of development for an additional period of 36
14 months. The aggregate of all extensions for commencement of
15 development shall not exceed 60 months. The deed or other
16 instrument of conveyance shall specify that if development has
17 not commenced within that time, the land shall revert to the
18 Department of General Services for disposal pursuant to this
19 section or as otherwise authorized by law.

20 (3) Transfer of title to the land or lease of the land to a housing
21 sponsor shall be conditioned upon continued use of the property
22 as housing for persons and families of low and moderate income
23 for not less than 40 nor more than 55 years. In accordance with
24 regulations that shall be adopted by the Department of Housing
25 and Community Development pursuant to the Administrative
26 Procedure Act, the Director of General Services shall require that
27 any housing sponsor purchasing or leasing land pursuant to this
28 subdivision enter into an agreement that (A) provides for
29 limitations on profit in the operation of that property that benefit
30 the public and which assure that the housing is affordable to
31 persons and families of low and moderate income, and (B) does
32 not permit the use of the property for purposes other than the
33 provision of housing for persons and families of low and
34 moderate income except as provided in this subdivision. Upon
35 recordation of the agreement in the office of county recorder in
36 the county in which the real property subject to the agreement is
37 located, the agreement shall be binding for a period of not less
38 than 40 nor more than 55 years upon successors in interest to the
39 original housing sponsor and shall inure to the benefit of, and be
40 enforceable by, the state.

1 For the purposes of this subdivision, “housing sponsor” means
2 a nonprofit corporation incorporated pursuant to Part 1
3 (commencing with Section 9000) of Division 2 of Title 1 of the
4 Corporations Code; a cooperative housing corporation which is a
5 stock cooperative, as defined by Section 11003.2 of the Business
6 and Professions Code; a limited-dividend housing corporation; or
7 a private housing developer who agrees to the conditions set
8 forth in this subdivision.

9 (4) Up to 40 percent of the housing developed on land
10 purchased at below market value pursuant to this subdivision
11 may be housing which is not regulated as to price, rent, or
12 eligibility of occupants only if the purchaser of the land
13 demonstrates that the proceeds from the sale or rental of that
14 housing, in an amount equal to the difference between the fair
15 market value and the actual price paid for the land, is used to
16 reduce prices or rents on other housing units which are made
17 available exclusively to persons and families of low and
18 moderate income.

19 (f) The Department of Housing and Community Development,
20 in consultation with the Department of General Services and the
21 Office of Planning and Research, shall make a report to the
22 Legislature on or before January 1, 1981, with respect to
23 effectiveness of the program and shall recommend any necessary
24 legislative changes to the provisions of subdivision (d).

25 (g) Where the land is to be used for public purposes other than
26 specifically set forth in this section, is to be operated by the local
27 agency at no expense to the state, and the use and enjoyment of
28 the public purpose contemplated will be of broad public benefit,
29 and not a benefit basically of local interest enjoyed and used
30 primarily by the residents of the area of tax jurisdiction of the
31 local agency, the Director of General Services, with the approval
32 of the State Public Works Board, may transfer the land to local
33 governmental agencies at a sales price not less than 50 percent of
34 fair market value. The transfer shall provide that if the land is not
35 used for the contemplated purpose during the period of 25 years
36 following the sale, the land shall revert to the state. The Director
37 of General Services may provide additional terms and conditions
38 which he or she determines to be in the best interest of the state.

39 (h) If there is more than one appropriate use and more than
40 one offer for the use of a parcel of surplus land, the Department

1 of General Services, in consultation with the Department of
2 Housing and Community Development, the Department of Parks
3 and Recreation, and the Office of Planning and Research, shall
4 determine the most appropriate use for the parcel and the
5 Department of General Services shall offer the land accordingly.

6 (i) Land that has been declared surplus by the Legislature,
7 pursuant to Section 11011, is not needed by any state agency, is
8 suitable for development for housing purposes, and is not in the
9 process of being acquired pursuant to other provisions of this
10 section, may upon the request of the Department of Housing and
11 Community Development be retained by the Director of General
12 Services for a period not exceeding five years, during which the
13 Director of General Services shall continue to offer the lands for
14 housing pursuant to subdivision (d).

15 (j) Transfer of state surplus lands under subdivision (d) shall
16 be at a cost which will enable provision of economically feasible
17 housing for persons and families of low or moderate income.

18 (k) Where the land is to be used for school purposes, the
19 Director of General Services with the approval of the State
20 Public Works Board and the State Allocation Board may,
21 notwithstanding any provision in Section 11011, transfer the land
22 to a local school district at less than fair market value of the land,
23 if the transfer is in the public interest, under the following
24 conditions:

25 (1) The land is suitable for use by a school district as a school
26 site, school administration building site, school warehouse site,
27 or other school use approved by the State Department of
28 Education.

29 (2) The land is used by the school district for those purposes
30 before a nonuse fee is required by Section 39015 of the
31 Education Code or a later time approved by the State Department
32 of Education, with a reversion to the state if not so used within
33 the time prescribed.

34 (3) The deed or other instrument of transfer shall provide that
35 the land shall revert to the state if the use is changed to a use not
36 consistent with school purposes during the period of 25 years
37 following the sale.

38 (l) This section shall be inoperative for the period
39 commencing with the effective date of the act that added this
40 subdivision, until July 1, 2005.

1 SEC. 3. Section 11011.2 of the Government Code is repealed.

2 ~~11011.2. (a) Any state agency that owns real property~~
3 ~~requiring annual maintenance costing in excess of fifty thousand~~
4 ~~dollars (\$50,000), and that declares that property to be surplus,~~
5 ~~shall provide for its maintenance for a period of one year from~~
6 ~~the date notification is made to the Department of General~~
7 ~~Services to request the Legislature to declare the property~~
8 ~~surplus, or until the property is sold. An agency may notify the~~
9 ~~Department of General Services to request the Legislature to~~
10 ~~declare property surplus while the property is still in use.~~

11 ~~(b) This section shall be inoperative for the period~~
12 ~~commencing with the effective date of the act that added this~~
13 ~~subdivision, until July 1, 2005.~~

14 SEC. 4. Section 11011.3 of the Government Code is repealed.

15 ~~11011.3. (a) Any public agency desiring to purchase surplus~~
16 ~~state real property, as set forth in Section 11011.1, shall give~~
17 ~~written notice to the Department of General Services of its intent~~
18 ~~to purchase the real property within 60 days after receipt of the~~
19 ~~Department of General Services' written notification of intent to~~
20 ~~sell the property.~~

21 ~~(b) If the public agency desiring to purchase the property and~~
22 ~~the Department of General Services are unable to arrive at a~~
23 ~~mutually acceptable sales price for the property within 180 days~~
24 ~~from the date of receipt of notice from the public agency, upon~~
25 ~~request of the public agency the Director of the Department of~~
26 ~~General Services shall hire an independent third party appraiser~~
27 ~~mutually acceptable to the agency and the department to appraise~~
28 ~~the property. If within 10 days after receipt of the appraisal the~~
29 ~~public agency and the department are unable to arrive at a~~
30 ~~mutually acceptable sales price, upon request of the agency final~~
31 ~~determination of the sales price shall be made by the State Public~~
32 ~~Works Board. The public agency shall bear all costs of the~~
33 ~~independent third party appraisal whether or not the agency~~
34 ~~elects to purchase the property. If the agency does purchase the~~
35 ~~property, the appraisal costs shall be added to the purchase price~~
36 ~~of the property. If the public agency does not purchase the~~
37 ~~property, it shall pay the appraisal costs, and the surplus real~~
38 ~~property may be disposed of in the normal manner.~~

39 ~~(c) After arriving at a mutually agreeable sales price, the~~
40 ~~Department of General Services and the public agency will be~~

1 allowed an additional 90 days to execute a sales or exchange
2 agreement to purchase the property. In the event an agreement is
3 not executed by the public agency within the 90-day period, the
4 Department of General Services may offer the property for sale
5 in the normal manner. Should 90 days prove insufficient for the
6 public agency to finance purchase of the property, the Public
7 Works Board for good cause may grant an extension of time to
8 complete the purchase. The 90-day limitation shall be suspended
9 when a bond election is to be held for the purpose of financing
10 the purchase of the property. However, the bond election shall be
11 called and held on the next eligible date and this suspension of
12 the 90-day limitation shall only be extended to the 10th day
13 following the date of the next bond election.

14 (d) For purposes of this section, written notice shall be deemed
15 given upon proper posting and deposit in the United States mail.

16 (e) Nothing in this section shall prohibit the state from
17 continuing to negotiate with a public agency for the sale of
18 surplus property pursuant to other provisions of this article.

19 (f) This section shall be inoperative for the period
20 commencing with the effective date of the act that added this
21 subdivision, until July 1, 2005.

22 SEC. 5. Section 11011.4 of the Government Code is repealed.

23 11011.4. (a) Notwithstanding any provision to the contrary in
24 Section 54222 or elsewhere, land may be transferred pursuant to
25 subdivision (d) of Section 11011.1 to a local agency at the cost
26 specified in subdivision (d) of Section 11011.1.

27 (b) This section shall be inoperative for the period
28 commencing with the effective date of the act that added this
29 subdivision, until July 1, 2005.

30 SEC. 6. Section 11011.5 of the Government Code is repealed.

31 11011.5. (a) When no state or other public entity seeks to
32 obtain title to specific surplus state-owned real property, a state
33 agency authorized to sell that property, except property acquired
34 for state highway purposes, may, with the approval of the
35 Department of General Services, employ a licensed real estate
36 broker for a negotiated commission not to exceed reasonable and
37 customary brokerage commissions applicable to similar privately
38 owned properties in the area in connection with that sale and pay
39 the amount of commission earned by the broker. The commission
40 shall be paid only out of the proceeds of the sale before the

~~proceeds are remitted to the State Treasury. The Director of General Services shall only employ the services of a broker when the director determines that the employment of a broker to sell the property would result in a cost savings to the state. Any state properties sold through the services of a broker shall be reported, along with a comparison of the estimated cost savings obtained through the use of a broker, in the annual surplus property report to the Legislature required pursuant to Section 11011.~~

~~(b) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.~~

SEC. 7. Section 11011.6 of the Government Code is repealed.

~~11011.6. (a) Notwithstanding any other provision of law, land held by the state and not needed by any state agency, acquired at little or no cost from a local governmental agency or private party, and where no significant amount of state funds have been expended to preserve, improve, restore, or reclaim such lands, and if it will be used by a governmental agency for a public purpose of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the agency, the Director of General Services, with the approval of the State Public Works Board, upon application by the agency or private party, may transfer the land to the governmental agencies at no cost.~~

~~(b) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.~~

SEC. 8. Section 11011.8 of the Government Code is repealed.

~~11011.8. (a) Whenever any person, as defined in Section 17, or public agency receives any state surplus real property at less than current market value, it shall pay all interim management and administrative costs incurred by the state between the time the person or public agency expressed interest in obtaining the property and the completion of the transfer and all costs incurred by the state in transferring title to the property.~~

~~(b) This section does not apply to any transfer of surplus state property that was authorized on or before January 1, 1989.~~

~~(c) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.~~

1 SEC. 9. Section 11011.9 of the Government Code is repealed.

2 ~~11011.9. (a) The Legislature finds and declares that:~~

3 ~~(1) Disposition of surplus property owned by public agencies~~
4 ~~should be utilized to further state policies.~~

5 ~~(2) There exists within the urban and rural areas of the state a~~
6 ~~serious shortage of decent, safe, and sanitary housing which~~
7 ~~persons and families of low or moderate income can afford, and~~
8 ~~consequently there is a pressing and urgent need for the~~
9 ~~preservation and expansion of the supply of housing for such~~
10 ~~persons.~~

11 ~~(3) The provision of decent housing for all Californians is a~~
12 ~~state goal of the highest priority. The disposal of surplus land is a~~
13 ~~direct and substantial public purpose of statewide concern and~~
14 ~~will serve an important public purpose, including mitigating the~~
15 ~~environmental effects of state activities. Therefore, it is the intent~~
16 ~~of the Legislature that priority be given in the disposal of surplus~~
17 ~~state land to housing for persons and families of low or moderate~~
18 ~~income, where such land is suitable for housing and there is a~~
19 ~~need for such housing in the community.~~

20 ~~(4) There is an identifiable deficiency in the amount of~~
21 ~~recreational land available to the public for park, recreational,~~
22 ~~school, and open-space purposes, as well as for housing and~~
23 ~~general community development purposes in accord with state~~
24 ~~policies.~~

25 ~~(b) It is the intent of the Legislature that surplus state property~~
26 ~~be disposed of in a manner which furthers state policies in the~~
27 ~~areas of parks, recreation, schools, open space, and housing and~~
28 ~~community development, or any combination thereof.~~

29 ~~(e) This section shall be inoperative for the period~~
30 ~~commencing with the effective date of the act that added this~~
31 ~~subdivision, until July 1, 2005.~~

32 SEC. 10. Section 11011.10 of the Government Code is
33 amended to read:

34 11011.10. (a) ~~Until July 1, 2005, the~~ *The* disposal of surplus
35 state property, including any property ~~already~~ declared surplus by
36 the Legislature *prior to the effective date of this section* but not
37 yet disposed of by the Department of General Services *as of that*
38 *date*, shall be subject to the requirements of this section.

39 (b) Notwithstanding any other provision of law, all state
40 agencies, departments, boards, and commissions, who have not

1 already done so pursuant to Executive Order S-10-04, shall
2 review the current and anticipated future programmatic need for
3 the state-owned and leased property that they occupy or have
4 under their stewardship, and identify and report any property
5 surplus to their current or future needs to the Department of
6 General Services. The department may provide instructions to
7 facilitate the reporting and determination of surplus properties.

8 (c) (1) The department shall review the properties identified
9 pursuant to Executive order S-10-04 and subdivision (b) to
10 determine whether those properties are surplus to the needs of the
11 state, report the surplus properties to the Legislature, and request
12 authorization from the Legislature to dispose of the properties by
13 sale or otherwise.

14 (2) Any state agency with property under its jurisdiction that is
15 determined to be surplus and authorized for disposition pursuant
16 to this subdivision or by previous legislative action, shall provide
17 for the maintenance of the property until it is disposed of by the
18 department under this section.

19 (3) Jurisdiction of property determined to be surplus shall be
20 transferred to the department, when requested by the Director of
21 General Services, for sale or disposition under this section.

22 (d) (1) Subject to paragraphs (2) to (4), inclusive, the
23 department may sell or otherwise dispose of property as
24 authorized by the Legislature pursuant to subdivision (c), upon
25 any terms and conditions and subject to any reservations and
26 exceptions the department deems to be in the best interests of the
27 state.

28 (2) (A) Notwithstanding any other provision of law, property
29 that has been declared surplus and whose disposition has been
30 authorized by the Legislature pursuant to subdivision (c) or by
31 previous legislative action, and has been determined by the
32 department not to be needed by any state agency, shall be offered
33 to local governmental agencies prior to being offered for sale to
34 private entities or individuals.

35 (B) In order to be considered as a potential buyer of the
36 surplus property, local governmental agencies shall notify the
37 department of their interest in the surplus state property within 60
38 days of receiving notice of the availability of the property. The
39 sale of the property to a local governmental agency pursuant to
40 this section shall be completed, and title transferred, within 90

1 days of the date the local governmental agency was notified of
2 the availability of the property.

3 (3) If the sale of a surplus state property to a local
4 governmental agency is not completed within the timeframe
5 specified in subparagraph (B) of paragraph (2), the department
6 shall offer the property for sale to private entities or individuals.

7 (4) Transfers of surplus property to local governmental
8 agencies or private entities or individuals pursuant to this
9 subdivision shall be at fair market value.

10 (e) *Notwithstanding paragraph (4) of subdivision (d), where*
11 *the land is to be used for park and recreation purposes and*
12 *operated for those purposes by local agencies at no expense to*
13 *the state, the Director of General Services with the approval of*
14 *the State Public Works Board may transfer the land to local*
15 *governmental agencies at less than the fair market value of the*
16 *land, if the transfer is in the public interest, under the following*
17 *conditions:*

18 (1) *The local public agency has submitted a general*
19 *development plan for the property that conforms to the agency's*
20 *general plan pursuant to Article 5 (commencing with Section*
21 *65300) of Chapter 3 of Title 7, and the general development plan*
22 *has been approved by the Director of Parks and Recreation.*

23 (2) *The land shall be developed according to plan within a*
24 *time period determined by the state but not to exceed 10 years.*
25 *The deed or other instrument of transfer shall provide that the*
26 *land shall revert to the state if the land is not developed within*
27 *the time period determined by the state.*

28 (3) *The deed or other instrument of transfer shall provide that*
29 *the land would revert to the state if the use changed to a use not*
30 *consistent with parks and recreation purposes during the period*
31 *of 25 years following the sale.*

32 (f) Except as otherwise required by the California Constitution
33 or federal law, the net proceeds of any property disposition,
34 including the sale, lease, exchange, or other means, that is
35 received pursuant to this section shall be paid into the General
36 Fund. For purposes of this section, "net proceeds" means gross
37 proceeds less all costs directly related to the completion of the
38 transaction including, but not limited to, selling costs, transfer
39 fees, commissions, and costs incurred by the department.

40 ~~(f)~~

1 (g) Except as otherwise required by the California Constitution
2 or federal law, any rental moneys or other revenues received by
3 the department from real properties, the jurisdiction of which has
4 been transferred to the department under this section, shall be
5 deposited in the General Fund in the account established by
6 Section 15863. Any expenditure required to maintain, repair, care
7 for, and sell the real property shall be paid from the appropriation
8 made by Section 15863.

9 ~~(g) This section shall become inoperative on July 1, 2005, and,~~
10 ~~as of January 1, 2006, is repealed, unless a later enacted statute,~~
11 ~~that becomes operative on or before January 1, 2006, deletes or~~
12 ~~extends the dates on which it becomes inoperative and is~~
13 ~~repealed.~~

14 SEC. 11. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety
16 within the meaning of Article IV of the Constitution and shall go
17 into immediate effect. The facts constituting the necessity are:

18 In order to ensure that statutory changes necessary for proper
19 administration and transfer of surplus state-owned real property
20 are effective for the entire 2005-06 fiscal year, it is necessary for
21 this bill to take effect immediately.